

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HAORAN GUO and ZIJUN GUO,

Plaintiffs,

-v-

SECRETARY ALEJANDRO MAYORKAS,
DIRECTOR TAMIKA GRAY, &
DEPUTY DIRECTOR SCOTT VELEZ,

Defendants.

24 Civ. 4716 (PAE) (SLC)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Pro se minor plaintiffs Haoran Guo and Zijun Guo filed a petition for a writ of mandamus seeking an order that compels defendants, United States Secretary of Homeland Security Alejandro Mayorkas, United States Citizenship and Immigration Services (“USCIS”) Director Tamika Gray, and USCIS Deputy Director Scott Velez, to adjudicate their applications for lawful permanent residence in the United States. Before the Court is the Report and Recommendation of United States Magistrate Judge Sarah L. Cave, recommending that the Court dismiss the petition without prejudice. Dkt. 20 (the “Report”). No objections have been filed. The Court incorporates by reference the summary of the facts provided in the Report. For the reasons that follow, the Court adopts Judge Cave’s recommendation in full.

I. Discussion

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of

the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950, 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 2 Civ. 5810, 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).


As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Cave’s thorough and well-reasoned Report reveals no facial error in its conclusions. As Judge Cave and the Government rightly point out, minors lack the capacity to bring suit themselves. *See Berrios v. N.Y.C. Housing Authority*, 564 F.3d 130, 134 (2d Cir. 2009). And the minor plaintiffs here have not requested *in forma pauperis* status, counsel, or the appointment of any other appropriate guardian or representative. The Court thus declines to seek *pro bono* representation on their behalf. Reinforcing this determination is that plaintiffs’ chances of success are “‘extremely slim.’” Report at 3 (quoting *Hodge v. Police Officers*, 802 F.2d 58, 60 (2d Cir. 1986)). That is because, on August 28, 2024 and September 20, 2024, USCIS approved the Guos’ applications, suggesting that the case is moot. *See id.* at 3.

The Report is therefore adopted in its entirety. Because the Report explicitly states that “failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review,” Report at 5, the parties’ failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 602–03 (2d Cir. 2008) (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court adopts Judge Cave’s recommendation to dismiss the petition. The Court respectfully directs the Clerk of Court to terminate the motion pending at Docket 18, close this case, and mail a copy of this decision to petitioners at the address on file.

SO ORDERED.

A handwritten signature in cursive script, reading "Paul A. Engelmayer".

Paul A. Engelmayer
United States District Judge

Dated: December 5, 2024
New York, New York